

REMARKS

At the time the Office Action issued, claims 1 – 12 and 27 to 29 were pending. In the Office Action mailed June 22, the Examiner rejected all claims under 35 USC § 102(e) as anticipated by US Patent 7,181,821 to Anderson.

Claim rejections under 35 USC § 102

In support of the office action, the Examiner asserts that based upon the earlier effective US filing date of the reference, Anderson constitutes prior art under 35 USC § 102(e).

Attorney for Applicant respectfully traverses the rejections.

The reference is a US patent that emerged from a 35 USC § 111(a) application that claims priority of a prior foreign application (EP). Consistent with the corresponding Example 3 ("Reference Patent of 35 USC § 111(a) application with 35 USC § 119(a)-(d) priority claim to a Prior Foreign Application) of MPEP 706.02(f)(1)-II, the relevant 102(e) date of the reference is the US filing date of the reference, which is July 17, 2003. This coincides with the US filing date of the present application.

35 USC § 102(e) requires the reference patent application to have been filed before the invention by the present applicant. Even if the US filing date of the present application is considered to be the same as the date of invention, the reference publication would not have a § 102(e) filing date before that, and therefore contrary to the Examiner's assertion, Anderson does not constitute prior art citable under 35 USC 102(e).

Reconsideration of the rejection is therefore respectfully requested.

Concluding remarks

Attorney has addressed each and every ground for objection and rejection raised by the Examiner in the Office Action. Attorney respectfully submits that the claims are in a state ready for allowance, and as such prompt issuance of a Notice of Allowance is respectfully requested.

In the event the Examiner has any questions or issues regarding the present application, the Examiner is invited to telephone the undersigned prior to the issuance of any written action.

Respectfully submitted,
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